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15 UNITED STATES DISTRICT COURT

16 DISTRICT OF NEVADA

18 AEVOE CORP., a California corporation,

19 Plaintiff,

20 vs.

21 AE TECH CO., LTD., a Taiwan corporation,
22 S & F Corporation dba SF PLANET
COMPANY and SF PLANET
23 CORPORATION, a Minnesota corporation, and
GREATSHIELD INC., a Minnesota
24 corporation,

25 Defendants.

Case No. 2:12-cv-00053-GMN -RJJ

PLAINTIFF'S MOTION FOR LEAVE TO
FILE CERTAIN DOCUMENT
EXCERPTS UNDER SEAL

Plaintiff Aevoe Corp. hereby submits its Motion for Leave to File Certain Document Excerpts under Seal. Aevoe requests that the Court enter an order sealing portions of its Reply in Support of Its Motion to Compel Responses to Discovery Requests.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Aevoe seeks to file its Reply in Support of its Motion to Compel Responses to Discovery Requests (“Reply”). Portions of the Reply contain confidential and proprietary information, including trade secrets, which should be protected under Fed. R. Civ. P. 26. After extensive discussions, Aevoe and Defendants reached agreement on all but one provision of a proposed protective order to maintain the confidentiality of confidential and proprietary information, including trade secrets, of parties and non-parties. Aevoe and Defendants ultimately submitted their respective proposed protective orders for the Court’s consideration, and they are pending before the Court. Accordingly, Aevoe requests that the Court enter an order sealing portions of its Reply that contain confidential and proprietary information.

II. ARGUMENT

A. Legal Standard

“The court may, for good cause, issue an order . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.” FRCP 26(c). Yet, the courts recognize a “strong presumption in favor of access” to judicial records. *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Accordingly, “[a] party seeking to seal a judicial record then bears the burden of overcoming this strong presumption by meeting the ‘compelling reasons’ standard That is, the party must articulate the compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process.” *Id.* at 1178-79 (citation and internal punctuation omitted).

However, the “compelling reasons” standard applies only to documents attached to dispositive motions.¹ *Kamakana*, 447 F.3d at 1179. In cases where a sealed discovery document is

¹ The sealing of dispositive filings is also appropriate to protect the parties’ proprietary business operations and trade secrets. *See generally Kamakana*, 557 F.3d at 1179. In such

1 attached to a non-dispositive motion, “the usual presumption of the public’s right of access is
 2 rebutted.” *Id.* (citations omitted). Regarding those documents, “the public has less of a need for
 3 access to court records attached only to non-dispositive motions because those documents are often
 4 unrelated, or only tangentially related, to the underlying cause of action.” *Id.* (citations and internal
 5 punctuation omitted).

6 A motion to compel is not a dispositive motion. Portions of Aevoe’s Reply contain
 7 confidential, proprietary information sales information. Accordingly, the “public’s right of access is
 8 rebutted,” and the Court has the authority to enter an order sealing or redacting those documents.
 9 *See Kamakana*, 557 F.3d at 1178. Further, courts have recognized the need to maintain the
 10 confidentiality of pricing and sales information to preserve a party’s competitive standing. *See, e.g.,*
 11 *Triquint Semiconductor, Inc. v. Avago Technologies Ltd.*, No. cv. 09-1531-PHX-JAT, 2011 WL
 12 6182346, *4 (D. Ariz. Dec. 13, 2011).

13 **B. Good Cause Exists to Seal Excerpts of Aevoe’s Reply In Support of Its Motion to**
 14 **Compel Responses to Discovery Requests**

15 Aevoe’s Reply contains confidential and proprietary information, including trade secrets,
 16 relating to Defendants’ confidential and proprietary sales information. Accordingly, the Court
 17 should grant Aevoe leave to redact its Reply and file it under seal. *See Triquint Semiconductor*,
 18 2011 WL 6182346 at *4.

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 28 circumstances as here, even under the “compelling reasons” standard, the need to prevent Aevoe’s
 sensitive material from disclosure and improper use will, in general, “be sufficient to outweigh the
 public’s interest in disclosure.” *Id.*

1 **III. CONCLUSION**

2 For the foregoing reasons, Aevoe requests that the Court permit it to redact portions of its
3 Reply in Support of Its Motion to Compel Responses to Discovery Requests and file the Reply under
4 seal.

5 RESPECTFULLY SUBMITTED this 27th day of September, 2012.

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8 By: 

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21 LVDOCS-#262683

22 **IT IS SO ORDERED.**

23 
24 **UNITED STATES MAGISTRATE JUDGE**
25 **DATED:** October 2, 2012

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